

**TOWN OF SOMERS
PLANNING COMMISSION
P.O. BOX 308
SOMERS, CONNECTICUT 06071**

**PLANNING MINUTES
REGULAR MEETING
THURSDAY, JUNE 28, 2007
7:00 P.M. TOWN HALL**

I. PUBLIC HEARING

**a. Resubdivision Application#402, 6 Lots, 455 Ninth District Road (North Farm Estates),
Bernier**

The public hearing was called to order by Chairman Karl Walton at 7:08 p.m. and the legal notice was read. Mr. Walton added that the Commission has receipts showing that all of the abutters identified on the plans have been notified and return receipts have been received from all but one abutter.

Mr. Walton also requested that for the purposes of this meeting information be presented on the May 30, 2007 plan only because that is the last plan that was made available to the public. Revised plans were delivered to the Town Hall today.

Attorney Chris Smith, Shipman & Goodwin, representing Jennifer and John Bernier, presented a packet including project plans, Erosion and Sediment Control Narrative compiled by Engineer John Martucci and dated June 25, 2007, Soil and Erosion Control Notes from the plans, and a copy of Atty. Smith's resume. Michael Bernier was also available to answer questions for the applicants. Engineer John Martucci from LBM Engineering, LLC and Sandy Aeschliman from Aeschliman Land Surveying were also present.

Mr. Smith explained that the parcel contains about 30 acres. They propose 5 new lots, with an existing structure on a 6th lot. There are no wetlands on the property. The lots will be served by private wells and individual septic systems. There is a proposed 550-foot road designated as North Farm Road.

Plans include a storm water quality treatment system which meets the 2004 DEP Storm Water Quality Manual guidelines. They also meet the DEP 2002 Soil and Erosion Control requirements.

Storm water will be directed into 4-foot catch basins and then into a splash pad across from Lot 6. From there it will flow into a detention basin with a vegetative bottom in the northwest corner of Lot 1. It will then discharge into a new 1,200-foot long storm water system with catch basins along Ninth District Road. The system includes a 24-inch culvert along the easterly side of Ninth District Road which leads into a 24-inch cross culvert and exits on the northwesterly side of the road. There will be a hydrodynamic separator to treat total suspended solids in order to meet the 80% requirements. Peak flows will be kept at current rates or lower in accordance with the Town Regulations.

There is a 300' power line easement along the southern boundary where there will be no development.

The area where the house lots will be located is comprised of approximately 6.5 acres and is not included in the storm water system. Mr. Martucci indicated that any sheet flow will continue to go over the existing area and will not have adverse impacts on the parcel or on abutters' land.

The proposed fee in lieu of open space is acceptable to the applicant. The applicants are requesting 2 waivers, one for radial lot lines and the other for map scale.

There is a right of way dispute in which adjoining property owners have brought a title action to court. Staff has received a letter regarding a possible right of way in favor of Sobaski's. This dispute is not to be handled by the Planning Commission but is being taken care of via litigation.

Merv Strauss asked about the vegetative surface treatment in the detention pond. Mr. Martucci explained that the detention pond is to be lined with New England Wet Mix. This is often used in detention ponds. Mr. Strauss expressed concern that since the grass acts as a filter, it will be important to be sure that the grass comes back annually.

Edward Wysocki, 337 Jobs Hill Road, Ellington, read a letter from James Wysocki, 62 Eaglebrook Road, regarding his belief that the Board of Selectmen and the Commissioners are not legally in office and that this hearing is not a legal hearing.

Attorney John Parks, O'Grady and Parks, noted that while the Planning Commission is not required to determine who has the right to use the right of way, it is required to uphold Somers' regulations and address the existing right of way. He referred to Regulation 213-11, which designates the type of information required on plans, and Subsection B.(4) which includes right of way easements. He also presented maps and photos showing the right of way.

He explained that the right of way is a road traversing the property. There are gates and fences at property lines. He noted that the surveyor is under obligation to include the right of way because he is aware that it exists. The deed to the previous owner, Ralph L. Wetherell, included language referring to rights of way. Attorney Parks and his clients have told the surveyor about the right of way and he was also made aware of it at the Zoning Board of Appeals meeting. The right of way is also on the United States Department of Interior Geological Survey and is the only access that the Peases, Sobaskis and the Charters have to the landlocked parcels between the Bernier's property and the next road. The existence of the right of way effects the placement of the road and septic systems.

Attorney Parks also presented an affidavit recorded by Clinton Charter on the Land Records regarding his opposition to this application.

He noted that it is Mr. Sobaski's position that even if the Town is allowing the water to drain along the public highway portion of the right of way, the developer still needs to obtain all necessary permits of flows across existing property owner's land and he is not willing to grant this permit.

Mr. Iadarola asked that if the right of way is an existing feature of the property, shouldn't it be included on the map. Mr. Aeschliman stated that there is no real defined pathway existing on the site, only a short driveway and the gates.

Jodi Sobaski, 432 Ninth District Road, stated that when the right of way is proven to exist, North Farms Road will have to be moved 75 feet. She also stated that there is a path directly in front of the barn. She also noted that a lot of things were left off the plans, including the telephone poles, overhead lines, fencing, side lot lines to the boundaries, and underground electric lines to the house and from the barn to the house.

Roger Pease, 370 Ninth District Road, stated that Ralph Wetherell originally requested that the gates be put in so that there was a way through. He also showed that the farm road was included on a CL&P map. There is a visible path across the area continuing through the fence.

Sandy Aeschliman noted that the information included on the survey includes the features that were on the land at the time the plans were done.

Joseph Russo, 479 Ninth District Road, explained that there are actually 2 gates and 2 roads. One of the roads is gravel and accesses his property in the back. This road is not shown on the survey either, even though it is shown on a previous map.

Edward Wysocki, 337 Jobs Hill Road, Ellington, noted that the right of way impacts him as well because he is part owner of Wild Acre Forest Management, 40 acres of Lot 5 and part of Lot 4. He stated that the right of way is active and he would like it protected. He added that the 1946 topo map shows it. He also is concerned about the power lines and the effect that this will have on future owners of the proposed house lots.

Attorney Amy Blaymore-Patterson, 74 Box Mountain Drive, Vernon, spoke on behalf of Joseph and Jacqueline Russo, noting that their property directly abuts the proposed subdivision. She explained that the application was dated May 3, 2007, has never been amended, and was for a subdivision. On May 9, 2007 Mr. Russo notified the Town by way of a letter to Karl Walton that the property had already been subdivided and so the application should be for a re-subdivision. When it is a re-subdivision a public hearing is mandatory.

But this was not done until after 2 meetings of the Commission and Mr. and Mrs. Russo object to this. She also asked if the applicant had requested waivers and Attorney Chris Smith reaffirmed that waivers have been requested.

Mr. Walton explained that the Town Attorney has advised that it is inappropriate to allow comment on any application that is not at an open public hearing. Also, at those meetings it was explained that a public hearing would be held which would allow for comments from the public and the Commission needs to be sure that the applicant, Planning Commission and Town staff are ready for the public hearing.

Attorney Blaymore-Patterson also read a letter from Jacqueline Russo to Karl Walton as Chairman of the

Commission dated June 27, 2007. The letter stated that it is Mrs. Russo's opinion that the development of the parcel will be of detriment to the role and agricultural character of the neighborhood and she urges the Commission not to approve the subdivision. It does not fit the topography of the site.

Joseph Russo, P.E., L.S., 479 Ninth District Road, presented a letter stating that he is concerned about the development because it will adversely impact the agricultural character of the neighborhood and does not fit the topography of the land. He noted that the common property line between Lots 2 and 3 is non-radial. The letter outlined 8 specific points where the proposed plan does not meet subdivision regulations, including: (1) The common property line between Lots 2 and 3 is non-radial; (2) Proposed roadway cuts are non-conforming; (3) Driveways are non-conforming; (4) The intersection with Ninth District Road does not meet the intent of Section 213-41.D(1); (5) Significant bleed-out of water from the 12-foot roadway cuts is expected and the plans should include a groundwater intercepting drain; (6) Comments regarding the Hydroflow calculations; (7) Proposed hydrodynamic separator does not take care of dissolved or soluble contaminants; (8) The rights of way are not shown on the plans.

Steve Sobaski, Ninth District Road, stated that Mr. Russo's comments included the statement that the peak water flows would be increased and the applicant will need a drainage easement and he will not give them one.

Mr. Strauss will check with the plans about the ground water. The Town does have under drains currently along the edge of the road so they are at lower levels but he will have to speak with Steve Jacobs about whether or not other drains are needed. Item 3, he is not sure he agrees with, but he will check further with the regulations. Frequently the Commission is presented with subdivisions that require large amounts of materials to be removed. The regulation is generally interpreted to control the way in which material is moved from the site. Mr. Strauss will have to look more closely at item 1 of the letter. Regarding the separator, the statutory regulations state that if you suppress the peak so that it is no more than what it was before, then you have met the obligation. And if you can meet the 80% requirement, then you have also met the obligation. He will be studying the comments further and may have different comments at a later time.

Mr. Walton stated that a newer subdivision plan has been received today and it will be available in the Town Clerk's Office along with the rest of the record of this meeting between now and the continuation of the public hearing.

A motion was made by Greg Genlot, seconded by Cliff Bordeaux and unanimously voted to continue the public hearing for Bernier's Resubdivision Application #402 for 6 lots at 455 Ninth District Road at the next regular Planning Commission meeting on Thursday, July 19, 2007, at 7:00 p.m. in the Town Hall.

II. CALL TO ORDER

Chairman Karl Walton called the regular meeting to order at 9:30 p.m. Members Cliff Bordeaux, Greg Genlot, Joe Iadarola (seated for Brad Pellissier) Karl Walton were present and constituted a quorum. Town Engineer Mervyn Strauss was also present.

III. OLD BUSINESS

a. Special Use Permit Application for Shady Lake ARH Project, 31 South Road, Shady Lake LLC - Update

Roger Frangmore stated that he and Dan Avery are ready for a public hearing. Nat Sreenath, David Payne, Landscape Architect, Jim Tripa, Housing Architect were present to answer any questions.

Nat Sreenath reviewed the plans explaining that they are proposing a cul-de-sac with duplex and single units of age restricted housing. Each unit will have it's own driveway. Water will be provided by Connecticut Water Company. He briefly reviewed the storm drainage system as presented previously.

Mr. Walton asked if all of the outflows conform to the Storm Water Manual requirements. Mr. Sreenath stated that the regulation does not say that you need to meet the requirements at each of the outflow areas, but that the entire system must meet the requirements. Discussion moved to a one of the drains and Mr. Sreenath explained that it is not engineered to remove 80% of the solids because there is no way to test it, but his common sense says that it will.

It was also noted that they are using Shady Lake to remove 80% of the solids. Mr. Strauss will research the plan to determine if it is acceptable. Mr. Walton noted that the intent is to protect the wetlands from the infusion of the suspended solids and not to use the wetland to achieve the standard when it leaves the property. He added that through the application process the applicant must prove to the Planning Commission that they satisfy the 2004 Storm Water Manual requirement of the DEP.

Mr. Walton stated that this may become a problem with the application going forward but he will defer to the engineer's opinion after researching the plan.

James Tripa described the proposed 32 units, comprised of single and duplex units just under 1,800 square feet. All of the units will have basements, either walkout or with hatches. All will be one bedroom, with an office/den, and all living space is to be on one level. Each unit will have a deck or patio. There will be a Homeowners' Association.

David Payne described the landscaping plan. There will be a walking trail. A buffer planting is proposed between the units and additional plantings will be made along the slopes. There will be meadow grass in the periphery. All trees which may impact an orchard have been eliminated.

It is anticipated that a public hearing will be set for August 2, 2007 at the next meeting.

b. Other – There was no Other Old Business.

III. NEW BUSINESS

a. Subdivision Application #403, 8 Lots, 88 Battle Street (Pine Knob Estates), Horizon View Estates, LLC

- Robert Gingras presented plans for an 8-lot subdivision connecting to Battle Street. The connection road meets the requirement for line of sight. He had submitted preliminary plans for Merv to look at and the drainage system has been altered in accordance with his recommendations. He presented these revisions for Mr. Strauss to look at. Mr. Strauss would like to have a conference about drainage maintenance issues with public works and the applicant's engineer.

b. Zoning Referral: Zoning Regulation Amendments for Somersville Center Overlay District

Mr. Walton presented a copy of the drafted final copy of the Zoning Regulation amendments for the Commissioners to review. Discussion on this was tabled until the next meeting.

c. Extension of Time to File Approved Subdivision Mylars with Town Clerk, Application #400, 1-Lot, Hall Hill & White Oak Roads, Richard A. McCullough, Inc.

- A motion was made by Greg Genlot, seconded by Joe Iadarola and unanimously voted to approve the applicant's request to extend the time to file a mylar with the Somers Town Clerk for Richard A. McCullough, Inc.'s 1-lot subdivision application #400 on Hall Hill and White Oak Roads. This extension is granted for an additional ninety (90) days to October 29, 2007.

d. Other

Discussion followed about the open space fee on the Richard McCullough subdivision application #400 and Mr. McCullough's inquiry. Mr. McCullough was asked to submit his reasons for requesting the inquiry in writing but he never submitted anything. The plans were accepted by signature and nothing further has happened.

V. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT – There was no discussion on this item.

VI. STAFF/COMMISSIONER REPORTS – No reports were given.

VII. AUDIENCE PARTICIPATION – There was no audience participation.

VIII. CORRESPONDENCE AND BILLS

Notice was received of a seminar on principles of drainage of for local roads. It was decided not to send the Town Engineer to the seminar.

- **IX. MINUTES APPROVAL** – This item was deferred to the next meeting.

IX. ADJOURNMENT

A motion was made by Cliff Bordeaux, seconded by Greg Genlot and unanimously voted to adjourn the

June 28, 2007 Planning Commission meeting at 10:30 p.m.

Respectfully submitted,

Brad Pellissier, Secretary

Robin Timmons, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.